

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CARLEN ARROYO,) CASE NO. CV 08-04637 SGL (RZ)
Petitioner,)
vs.) ORDER GRANTING MOTION TO
THE PEOPLE OF THE STATE OF) DISMISS AND DISMISSING
CALIFORNIA, Warden,) PETITION WITH LEAVE TO AMEND
Respondent.)

In a petition seeking a writ of habeas corpus, the petitioner must name the person having custody of the petitioner. 28 U.S.C. § 2242; Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts. Petitioner Carlen Arroyo alleges that he is confined at the Southwest Detention Center in Murrieta, California, but he does not name as Respondent the person who has custody of him, which typically would be the warden (or similar person having charge of the facility). *Brittingham v. United States*, 982 F.2d 378, 379 (9th Cir. 1992). (His named respondent, the People of the State of California, presumably is the name under which the underlying action against him was prosecuted.) Failure to name the custodian as a respondent deprives the Court of personal jurisdiction. *Stanley v. California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994).

Accordingly, Respondent's motion to dismiss is granted, and the Petition is dismissed. Petitioner may have 30 days in which to file an amended petition, naming as

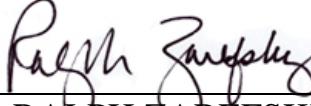
1 respondent the person who has custody of him. Any further petition should be titled First
2 Amended Petition for a Writ of Habeas Corpus, shall be on the approved form provided
3 by the Central District of California, and shall bear the same case number as the present
4 Petition.

5 Petitioner is warned that his failure to file an amended petition may be deemed
6 to be a consent not to proceed further, and may subject his action to dismissal for failure
7 to prosecute as well as lack of jurisdiction.

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9 DATED: October 10, 2008

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12 RALPH ZAREFSKY
13 UNITED STATES MAGISTRATE JUDGE

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